

REMARKS

By this amendment, claims 42-81 are pending, in which claims 72 and 77 are currently amended. Claims 2-41 were previously canceled. No new matter is introduced.

The Office Action mailed August 25, 2006 rejected all pending claims under the judicially created doctrine of obviousness-type double patenting. In addition, claims 72-74 and 77-79 were rejected under 35 U.S.C. § 102 as anticipated by *Lebowitz* (U.S. Pat. No. 5,454,024).

As an initial matter, Applicant notes that claim 74 was not listed in the statement of the rejection (top of page 11, Office Action); but an explanation of the rejection of claim 74 was provided. Accordingly, Applicant presumes the Examiner intends to reject claim 74.

In the interest of expediting prosecution, Applicant intends to submit a terminal disclaimer, thereby overcoming the obviousness-type double patenting rejection.

Also, independent claims 72 and 77 have been amended. Amended claims 72 and 77 recite “wherein the **monitoring device utilizes the physical layer signaling protocol.**” The Office Action, on page 11, states that “the claimed physical layer signaling protocol is inherent in CDPD.” Applicant notes that this conclusion is with respect to the physical layer of the CDPD. By contrast, the claimed physical layer signaling protocol in one that is utilized by the monitoring device.

That is, the *Lebowitz* system does not disclose, explicitly or otherwise, that physical signaling used by a monitoring device (e.g., alarm control panel 16) is conveyed over a cellular network. For example, the interaction between the alarm control panel 16 and the cellular interface 24 (see FIG. 1) is as follows (col. 5: 9-22). The output of the alarm control panel 16 and communicator 17 is connected by means of conductors 23 to a cellular interface 24 which provides artificial dial and voltage to the communicator and digital dialer 17. Upon receiving the

electronic signal (that comprises the telephone number to be dialed) from the digital dialer 17, that signal and an electronic "send" signal are then electronically entered into a transceiver 26 by means of conductors, such as conductor 27. The cellular interface 24 provides a path of communication between the communicator/digital dialer 17 and the cellular transceiver 26. A telephone handset 28 may also be connected to the interface 24. The transceiver 26 also includes an antenna 31 by means of which data may be transmitted over-the-air to a cellular network 32.

In view of the foregoing, Applicant respectfully requests withdrawal of the anticipation rejection, as anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a prior art reference.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date


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